

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Ronkainen et al.
Title: System, Methods and Computer Program Product For
Device Group Management Using Virtual Device Domain
Appl. No.: 10/816,694
Filing Date: 4/1/2004
Examiner: PARK, ILWOO
Art Unit: 2182
Confirmation Number: 9712

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
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Sir:

In accordance with the **Pre-Appeal Brief Conference Pilot Program**, announced July 11, 2005, this Pre-Appeal Brief Request is being filed together with a Notice of Appeal.

REMARKS

Claims 1-17 and 19-22 stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent Publication No. 2006/0031768 to Shah et al. (hereinafter “Shah”). Further, claim 18 stands rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Shah in view of what was allegedly well known in the art. Applicant respectfully traverses these rejections for at least the following reasons.

Shah describes a system and method for receiving purchase information that uses a configuration diagram. See Shah, Abstract. According to Shah, a configuration diagram comprises multiple product icons that represent hardware and/or software products, and further includes visual representations of the relationships between the various nodes, connections or links in the system. See, e.g., Shah, Abstract, paragraph [0147], and Figures

21A and 21B. The disclosure of Shah further describes that a user may, for example, indicate his/her preference for purchasing a product by providing an input that graphically associates a product icon with the configuration diagram, and in response, the configuration diagram is updated. See Shah, Abstract.

Applicant's arguments presented in previous responses regarding patentability of the pending claims remain applicable to the present rejections and the presently pending claims. In particular, Applicant respectfully notes that even the most pertinent sections of Shah are fundamentally different from the pending claims in that they describe creating a "configuration diagram" that describes the relationships between the various nodes, connections or links.

In rejecting independent claims 1, 6, 9 and 20, the Examiner cites Shah, paragraph [0155], as allegedly disclosing that each icon in Shah's configuration diagram includes the data of the respective corresponding physical device. See Office Action, dated November 7, 2008, page 3, item 4. Applicant respectfully disagrees.

The above-noted sections of Shah describe displaying information such as type of the device, geographic location of the device, and calibration information, proximate to the device. In contrast, pending claim 1 recites "each virtual device including the data stored within the respective corresponding physical device." This feature of the pending claims is clearly described in the originally filed specification at, for example, paragraph [0032]:

"[0032] FIG. 2 illustrates a system 20 including a virtual device domain or virtual counterparts 22 of physical communication devices 24. The system 20 actually maintains a copy of the data of every device of the user in the network."

This feature enables synchronization of the virtual device, which now contains a copy of the data of its physical counterpart, with other virtual devices (the synchronization feature of present claims will be discussed shortly).

In the Advisory Action, dated January 12, 2009, the Examiner further argues that Shah, in paragraph [0206], describes that the remote device communicates its geographical location, and it holds the data itself since "if the remote device does not have the data the data cannot be communicated by the remote device." See Advisory Action, Continuation Sheet.

Applicant respectfully disagrees with the Examiner. Specifically, there are no teachings or suggestions in Shah to indicate that the geographical information of the remote device is stored within the device. In fact, such a scenario may be undesirable and unlikely since a device's geographical location can continually change. Shah's disclosure is silent on how such geographical information may be obtained. Based on the disclosure of Shah, it is unlikely that such geographical information was stored within the device.

In contrast, the pending claims recite "each virtual device including the data stored within the respective corresponding physical device." The originally filed specification further clarifies that "a copy of the data of every device of the user in the network" is maintained within the virtual network. See Specification, paragraph [0032]. Therefore, the data stored within the physical device, as recited in the pending claims, is distinguishable from Shah's display of information such as the type of device, geographic location of the device, and calibration information.

Further, there are no teachings or suggestions in Shah of "synchronizing the virtual device with one or more other virtual devices," as recited in the pending claims. In this regard, even the most pertinent sections of Shah describe "type checking" of the devices within the configuration diagram to ensure a first device icon can interface to a second device icon. See e.g., Shah, paragraph [0158]. More specifically, Shah discloses:

"[0158] In one embodiment, the configuration diagram is operable to perform type checking of connections between device icons, e.g., to verify that a first device corresponding to a first device icon can interface to a second device corresponding to a second device icon. For example, when the user draws a link between a first device icon and a second device icon, software may analyze the interface types of the two devices to ensure that the connection is proper. The configuration diagram may also be operable to perform type checking of connections between program icons, e.g., to verify that a first program corresponding to a first program icon can invoke (or be invoked by) a second program corresponding to a second program icon. For example, when the user draws a link between a first program icon and a second program icon, software may analyze the program types of the two programs to ensure that the invocation can be performed." (emphasis added).

As such, the disclosure of Shah is limited to "type checking," which is specifically described in Shah as checking connections between device icons to ensure proper interface

compatibility. There is no teaching or suggestion in Shah of synchronizing the virtual device with one or more virtual devices, as recited in the pending claims and embodiments of which are described in the originally filed specification at, for example, paragraphs [0005], [0037] or [0038]. For example, paragraph [0005] describes that a synchronization operation between devices involves the transfer of data between devices so that one device contains the information that is stored in the other device. In fact, several paragraphs of the specification, in the section titled “BACKGROUND OF INVENTION,” are devoted to describing various shortcomings associated with existing data synchronization methods. See e.g., Specification paragraphs [0006] to [0011].

In addition, the ordinary meaning of “synchronization,” in the context of the present invention, is consistent with the originally filed Specification noted above. For example, the online encyclopedia Wikipedia describes “synchronization” in context of a personal digital assistant (PDA) as:

“Synchronization: An important function of PDAs is synchronizing data with a PC. This allows up-to-date contact information stored on software such as Microsoft Outlook or ACT! to update the database on the PDA. The data synchronization ensures that the PDA has an accurate list of contacts, appointments and e-mail, allowing users to access the same information on the PDA as the host computer.... Transferring data to a PDA via the computer is therefore a lot quicker than having to manually input all data on the handheld device” Wikipedia (http://en.wikipedia.org/wiki/Personal_Digital_Assistant#Synchronization) (emphasis added).

It is, therefore, evident that “synchronization,” as used in the context of the present invention, is neither taught nor suggested by Shah’s disclosure, which is related to type checking of device interfaces.

The Examiner further argues that Shah describes that a user may manually drag and drop a program from one device to another, and therefore Shah teaches synchronization of the virtual device with one or more other virtual devices, as recited in the pending claims. See Office Action, dated November 7, 2008, page 2, item 2. The Examiner also argues that, while the present specification indicates that synchronization does not require a user action, this limitation is not specifically recited in the claims. See Advisory Action, Continuation Sheet. Applicant respectfully disagrees.

As admitted by the Examiner, synchronization is described in the present application as not requiring a user's affirmative actions and is, thus, different from dragging and dropping a program icon from one device to another, as is described in Shah. See Shah, paragraphs [0174]-[0175] and Figures 11-12. The present specification, in paragraph [0044], discloses:

“[0044] ... For instance, the user can change the number of her voice mailbox or other settings. These settings must also be synchronized to other devices. With the Virtual Device Domain that happens automatically, without the user having to realize that synchronization is needed.” (emphasis added).

As apparent from the present specification, synchronization does not involve a user's manual dragging and dropping of programs, as argued by the Examiner. In addition, the ordinary meaning of the term “synchronization” in the present context does not include a user's drag-and-drop operation that is described in Shah. For example, the Wikipedia definition noted above clearly distinguishes “synchronization” from a user's manual transfer of data. As such, “synchronization” is sufficiently described in the present specification and does not require further qualifications. See MPEP 2106-II-B (“Office personnel must rely on the applicant's disclosure to properly determine the meaning of the claims”).

Accordingly, claims 1, 6, 9 and 20 are also patentable for at least the above-noted reasons. As to claims 2-5, 7-8, 10-19 and 21-22, these claims each depend, either directly or indirectly, from one of allowable claims 1, 6, 9, or 20 and are, therefore, patentable for at least that reason, as well as for other patentable features when these claims are considered as a whole.

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance.

Respectfully submitted,

Date: March 5, 2009

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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 037145-1201	
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<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <input type="checkbox"/> applicant/inventor. <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96) <input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>37,268</u> <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____ </div> <div style="width: 45%; text-align: center;"> <u>/G. Peter Albert, Jr./</u> Signature <u>G. Peter Albert Jr.</u> Typed or Printed Name <u>(858) 847-6735</u> Telephone Number <u>March 5, 2009</u> Date </div> </div> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <input checked="" type="checkbox"/> *Total of 1 forms are submitted. </div>			

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